

State Water Quality Certification of Section 404 Permits

Does your project meet Texas' water quality standards?

The Texas Natural Resource Conservation Commission (TNRCC) must consider this question for all proposed projects seeking a Section 404 dredge and fill permit.



One of the requirements for obtaining a Corps of Engineers Section 404 permit is certification from the TNRCC that the permit will comply with state water quality standards. This requirement is authorized by Section 401 of the federal Clean Water Act, and is therefore referred to as 401 certification.

The attached 401 certification questionnaire must be submitted in order for TNRCC to determine whether or not a project should be granted 401 certification. Please note that the information requested in this questionnaire is *not* required in order for a Section 404 application to be considered administratively complete by the Corps of Engineers. However, failure to provide this information (including the Alternatives Analysis Checklist) to the TNRCC (within 30 days) of the public notice may cause your project to be denied 401 certification without prejudice.

What do you need to submit to TNRCC?

1. A completed 401 certification questionnaire
2. A completed Alternatives Analysis Checklist (if your project impacts wetlands)
3. A map with the location of the project clearly marked (A U.S. Geological Society (USGS) topographic map *strongly recommended*)
4. Photographs or a video cassette showing the project area and any associated disposal areas. (Map and photos should be numbered to show where the photos were taken and the area covered by each photo).

What is involved in review of Section 401 certifications?

1. Filing an application with the Corps starts both the 404 permit and the 401 certification processes.
2. A Joint Public Notice is issued by the Corps and TNRCC after receipt by the Corps of a completed application to inform the public and other government agencies of the proposed activity.
 - A 30-day comment period follows
 - TNRCC may hold a public hearing to consider the potential impacts of the proposed project on water quality
3. TNRCC may request additional information from the application, persons submitting comments or requesting a hearing, or other resource agencies
4. A final 401 certification decision will be provided following the end of the comment period

401 Certification Questionnaire

The following questions seek to determine how unacceptable adverse impacts will be avoided during construction or upon completion of the project. If any of the following questions are not applicable to your project, write NA ("not applicable") and continue.

Please include the applicant's name as it appears on the Corps of Engineers' permit application (and permit number, if known) on all material submitted. The material should be sent to:

The Texas Natural Resource Conservation Commission
Attn: 401 Coordinator (MC-150)
P.O. Box 13087
Austin, TX 78711-3087

I. Impacts to wetlands

- A. Will wetlands be disturbed, altered or destroyed by the proposed activity? If yes, indicate the area (acres or square feet) that will be affected.

No _____ Yes _____ Area _____

- B. If wetlands will be disturbed, altered or destroyed, please complete the attached Alternatives Analysis Checklist.

- C. If wetlands will be impacted, is compensatory mitigation proposed? If yes, submit a copy of the mitigation plan. If not, explain why not.

II. Disposal of waste materials

- A. Describe the methods for disposing of materials recovered from the removal or destruction of existing structures.

- B. Describe the methods for disposing of sewage generated during construction. If the proposed work establishes a business or a subdivision, describe the method for disposing of sewage after completing the project.

- C. For marinas, describe plans for collecting and disposing of sewage from marine sanitation devices. Also, discuss provisions for the disposing of sewage generated from day-to-day activities.

III. Water quality impacts

- A. Describe the methods to minimize the short-term and long-term turbidity and suspended solids in the waters being dredged and/or filled. Also describe the type of sediment (sand, clay, etc.) that

will be dredged or used for fill.

- B. Describe measures that will be used to stabilize disturbed soil areas, including: dredge material mounds, new levees or berms, building sites, and construction work areas. The description should address both short-term (construction related) and long-term (normal operation or maintenance) measures. Typical measures might include containment structures, drainage modifications, sediment fences, or vegetative cover. Special construction techniques intended to minimize soil or sediment disruption should also be described.
- C. Discuss how hydraulically dredged materials will be handled to ensure maximum settling of solids before discharging the decant water. Effluent from an upland contained dredged material disposal area shall not exceed a total suspended solids (TSS) concentration of 300 mg/l. Plans should include a calculation of minimum settling times with supporting data. (Reference: Technical Report, DS-7810, Dredge Material Research Program, GUIDELINES FOR DESIGNING, OPERATING, AND MAINTAINING DREDGED MATERIAL CONTAINMENT AREAS) If future maintenance dredging will be required, the disposal site should be designed to accommodate additional dredged materials. If not, please include plans for periodically removing the dried sediments from the disposal area.
- D. Describe any methods used to test the sediments for contamination, especially when dredging in an area known or likely to be contaminated, such as downstream of municipal or industrial wastewater discharges.

Alternatives Analysis Checklist

- I. Alternatives
 - A. How could you satisfy your needs in ways which do not affect wetlands?
 - B. How could the project be re-designed to fit the site without affecting wetlands?
 - C. How could the project be made smaller and still meet your needs?
 - D. What other sites were considered?
 - 1. What geographical area was searched for alternative sites?
 - 2. How did you determine whether other non-wetland sites are available for development in the area?
 - 3. In recent years, have you sold or leased any lands located within the vicinity of the project? If so, why were they unsuitable for the project?
 - E. What are the consequences of not building the project?
- II. Comparison of alternatives
 - A. How do the costs compare for the alternatives considered above?
 - B. Are there logistical (location, access, transportation, etc.) reasons that limit the alternatives considered?
 - C. Are there technological limitations for the alternatives considered?
 - D. Are there other reasons certain alternatives are not feasible?
- III. If you have not chosen an alternative which would avoid wetland impacts, explain:
 - A. Why your alternative was selected, and
 - B. What you plan to do to minimize adverse effects on the wetlands impacted.
- IV. Please provide a comparison of each criteria (from Part II) for each site evaluation in the alternatives analysis.